

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Brian Von Herzen, Ph.D. David C. Keenan, MScSt	Art Unit:	2677
Serial No.	:	09/351,420	Examiner:	Nguyen, K.
Filed	:	July 9, 1999		
Title	:	Illuminated Wearable Ornament		

Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT AND INTERVIEW REPORT

Dear Sir:

Assignee submits the following remarks in response to the April 6, 2007, paper and to document interviews today and yesterday. No fees are required. No amendments are being submitted at this time.

Remarks and Interview Report

Restriction Requirement

On or about April 10th, assignee's undersigned representative called Examiner Nguyen and requested withdrawal of the restriction requirement dated April 6, 2007. Assignee pointed out that the restriction requirement followed a fifth non-final Office Action, and that the restriction separated certain claims that had been allowed previously (claims 26-29) from the rest of the claims. In a telephone interview yesterday, Examiner Nguyen responded that, after discussion with the SPE, the restriction requirement would be withdrawn and the application fully examined.

To avoid any loss of patent term adjustment, assignee responds to the restriction requirement even though the Office has promised to withdraw it. Assignee elects Group I with traverse. Traverse is based on the fact that it would take no additional effort to examine the claims of the non-elected group because those claims have already been examined and allowed. *See* MPEP 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions"). The Examiner has not demonstrated the existence of a serious burden, as required by MPEP 803, to examine the application in its entirety, requiring withdrawal of the restriction.

Rejections and Allowances

Examiner Nguyen called back today to discuss the substance of the previous rejections. The undersigned assignee's representative discussed with the examiner the issues addressed in the most recent response to Office Action. Assignee asked the Examiner to review all the claims carefully, including dependent claims, to ensure that all allowable subject matter is addressed.

As a result of the discussion today, the Examiner indicated that she would issue a new Office Action, and that she intended to dispose of the claims argued in the last response by (1) entering a new rejection of previously allowed claim 14 and corresponding claim 38, (2) indicating allowance of previously rejected claims 37, 12/24/36, 16/17, and 54,

(3) maintaining rejections, despite assignee's arguments, of claims 1/5-9/11/20/25/49/53/55, and, with additional explanation in the next Office Action, of claims 2-4, and (4) reconsidering further the Office's position as to claim 30, claim 34, claim 51, and claim 22.

After implementing the decisions above, the claim status would be as follows:

Allowed: Claims 26-29

Objected to but allowable: Claims 10, 12, 13, 15-19, 21, 24, 36, 37, 39-48, and 54.

Rejected: Claims 1, 2-9, 11, 14, 20, 25, 38, 49, 53, and 55

Being reconsidered: Claims 22, 23, 30-35, 38, 50, and 51

Assignee hopes that such an Office Action can be issued promptly and that the issues defined and explained clearly so that the application can be concluded promptly.

With respect to claims 22 and 30 being reconsidered (and 34 and 51 if claim 30 is not allowed), the Examiner is encouraged to review carefully assignee's remarks in the January 12, 2007, response to office action.

Assignee again invites the Examiner to telephone the undersigned if she believes it would be fruitful to discuss this matter further.

Respectfully submitted,

RAPID PROTOTYPES, INC.
by its attorney

Dated: April 25, 2007

/Louis J. Hoffman/

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